

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-05-3726.M5

MDR Tracking Number: M5-05-0920-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 11-18-04.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The office visit on 9-29-04 **was found** to be medically necessary. The therapeutic exercises from 9-24-04 through 9-29-04 **were not found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this Order. This Order is applicable to date of service 9-29-04 as outlined above in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 4th day of January 2005.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

DA/da

Enclosure: IRO decision



Specialty Independent Review Organization, Inc.

December 23, 2004

Hilda Baker
TWCC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient:
TWCC #:
MDR Tracking #:M5-05-0920-01
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor. The reviewer is on the TWCC ADL. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

___ was injured on ___ while employed by the Metropolitan Transit Authority. He was injured when he was involved in a bus versus dump truck accident while unloading passengers according to the records received. He presented to the office of David Rabbani, DC on 4/13/04. He complained of lumbar spine pain bilaterally. He was stated to be 5'9" and weighed 294 lbs. His pain scale was not indicated in the initial report by Dr. Rabbani. ON 5/7/04, a re-examination

was performed and the pain scale was noted to be 6/10. The MRI indicated a previous hemilaminotomy at L4/5 and previous partial discectomy, strong suspicion of swelling to the left traversing L5 nerve root and a subligamentous herniations of L5/S1 compressing the S1 nerve root on the right. As of 6/9/04 his pain scale was at a 5/10 and range of motion was slightly improved in the lumbar spine over the previous examination. He received ESI's on 7/20/04 and 8/24/04. As of 9/14/04 the notes indicate that the pain has reduced to a 3/10. The patient was seen by Richard Larrey, MD for an RME. The treating doctor indicates that a proper examination was not performed in a letter of 9/28/04.

Records were received from both the requestor/treating doctor and respondent. Records from the respondent include the following: 12/17/04 7-day letter, TWCC MDR request and attached forms (twcc 60,etc), various EOB's, TWCC 73 9/22/04 and RME report by Richard Larrey, MD. The requestors records include the following: 11/15/04 request for reconsideration letter, 4/13/04 report by Medpro Clinics, 5/7/04 report by Medpro Clinics, 5/12/04 MRI and radiographic report of lumbar spine, 5/14/04 letter by Dr. Rabbani, 5/27/04 letter and report by Uday Doctor, MD, 6/9/04 letter by Dr. Rabbani, 7/20/04 operative report of L5 nerve root block and epidurograms, 7/23/04 letter by Dr. Rabbani, 8/3/04 progress note by Dr. Doctor, 8/20/04 letter by Dr. Rabbani, 8/24/04 oeprative note by Dr. Doctor, 9/14/04 progress note by Dr. Doctor, 9/21/04 letter by Dr. Rabbani, 9/22/04 letter from Dr. Rabbani, 9/28/04 letter by Dr. Rabbani, 9/29/04 letter by Dr. Rabbani, 10/21/04 request for reconsideration and 10/27/04 notice of certification.

DISPUTED SERVICES

Disputed services include therapeutic exercises and office visits from 9/24/04 through 9/29/04.

DECISION

The reviewer disagrees with the previous adverse determination regarding the office visit of 9/29/04. The reviewer agrees with the previous adverse determination regarding all other services.

BASIS FOR THE DECISION

The reviewer indicates that there were no notes indicating the exact exercises that were performed on these dates of service. There was no indication of the length of time, the efficacy of the exercises and the progression of difficulty of the program. The reviewer indicates that the exercises may have helped the patient, they may have helped him return to work and they may have increased his functional abilities; however, they were not documented in the records provided by the requestor or respondent. Therefore, as per Medicare/TWCC documentation rules, these services cannot be found to be medically necessary.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the

requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,

Wendy Perelli, CEO

CC: Specialty IRO Medical Director